

**Before The
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.**

)	
In the Matter of)	
)	MM Docket 04-233
Broadcast Localism)	
)	

**COMMENTS OF
MIDWEST CHRISTIAN MEDIA, INC.**

Midwest Christian Media, Inc. (MCM), provides consulting services to seven organizations in Eastern Missouri. Six of these organizations are attempting to obtain construction permits for Low Power FM (LPFM) radio stations. One has obtained a LPFM construction permit. The following are the comments of MCM.

These comments were initially solicited by National Religious Broadcasters (NRB) and filed jointly with those of other members on July 26, 2004 under RM-10803. This filing includes the same comments and was made on November 1, 2004, under MM Docket 04-233 in order to maintain rights to take future actions independent of NRB. In addition, paragraph III has been added.

Also, the posting of these comments on ECFS resulted in the loss of the footnotes. A copy of this filing will be forwarded by mail so that the document with footnotes are available to the Commission.

- I. Allowing LPFM stations in urban areas, through the repeal of the so-called Radio Preservation of Act of 2000 and/or through the exercise of the FCC's current authority to allow religious applicants to place LPFM stations on 3rd adjacent channels, will increase localism.

A. History

Hundreds of full power stations are licensed to channels that are 3rd and 2nd adjacent channels to existing stations. As of 2000, the FCC had never received a interference complaint with respect to these full power stations.

Full power stations may broadcast with as much as 100,000 watts. But LPFM stations, which can not use more than 100 watts, have been banned by

existing stations through Congressional lobbying successes from 3rd and 2nd adjacent channels because of the falsehood that they would create too much interference. Several studies have shown that LPFM stations on 3rd and, in some cases, on 2nd adjacent channels will cause no significant interference to existing stations.

Recently Senator John McCain said, “. . . before the Commission could act on many of the applications for this new community service, broadcasters frightened legislators into halting the full implementation of Low Power FM. Broadcasters masqueraded their true concerns about competition from a real *local* radio broadcaster in thinly veiled claims of interference. Due to the broadcasters’ subterfuge, Congress added language . . . “

B. The ban on LPFM stations in urban areas inhibits localism.

The ban effectively disallowed LPFM stations in urban areas. However, it is in urban areas where LPFM stations will work best and where they are most needed.

First, the population density in urban areas is great enough to provide the necessary resources for LPFM stations to do a good job.

Second, communities in urban areas are generally the communities most lacking localism.

For example, Union, Missouri, has its own AM radio station. The city has a population of around 7,300 and is located in Franklin County. Union is a one-hour drive from downtown St. Louis.

Each morning on this station the residents of Union can hear funeral announcements. They can hear reports and actualities from the local school board meeting, the city counsel meeting, and the county commission meeting. The news programs include details on local fires and vehicular accidents. Local churches and Christian organizations produce preaching and music programs. Residents can post their items for sale. Listeners can question local politicians and public service officials. In the evening, local basketball and football games are broadcast. They can find out how well the fundraising is going for their new senior citizens’ center.

The county just to the East of Franklin County is St. Louis County. There is not one community in St. Louis County that experiences the degree of localism in broadcasting that is found in Union. Some of these communities are the largest cities in Missouri. With few exceptions, their only access to broadcasting is through regional stations that never have the time to dwell on all the services needed in a specific community. For example, there are no

local sports play-by-play broadcasts . . . only the Cardinals, the Rams, and the Blues. There are few local church services being broadcast because the rates charged by the stations are rates appropriate for a broadcast to a large region, not the lower rates appropriate for a single community. Generally you would not even know that your school board had met if you were to rely on St. Louis' regional radio and television stations.

Furthermore, urban areas have diverse populations. St. Louis City and St. Louis County have Spanish and Romanian populations. None of the existing broadcast stations broadcast in Spanish or Romanian. Language is also a localism issue.

“ . . . the Commission has long recognized that 'every community of appreciable size has a presumptive need for its own transmission service.'” Though there are regional radio stations with signals over these communities and minority language groups, in reality they do not have their own, specific transmission service. LPFM stations could be used to reach them.

C. The FCC must exercise its presently held authority to issue 3rd adjacent channel, LPFM construction permits to religious applicants.

The FCC has requested that Congress lift the ban on LPFM stations occupying 3rd adjacent channels. Senator McCain has introduced S. 2505, The Low Power Radio Act of 2004, for this purpose. However, the Commission still has authority to issue construction permits to religious applicants for LPFM stations on 3rd adjacent channels.

The Religious Freedom Restoration Act (RFRA) requires that the FCC have a compelling interest before it prohibits LPFM stations proposed by religious applicants. The Congressional ban did not modify RFRA or make it inactive.

It is our belief that the Commission does not have a compelling interest to keep religious LPFM stations off 3rd adjacent channels. In fact the Commission conducted a formal rule making process that resulted in applicants applying for that status. The Mitre Study has confirmed that the Commission does not have a compelling interest.

Thus the FCC has been in a continuous state of noncompliance to RFRA since it enforced modified rules to ban religious LPFM stations on 3rd adjacent channels. From the conclusion of the original rule making process, the FCC has never lacked authority to issue construction permits to religious organizations.

The Commission must immediately lift the ban on religious applicants for

LPFM stations on 3rd adjacent channels. This action is one that the FCC must take immediately and it will increase localism.

D. The Commission should give priority to all previous applicants for LPFM stations on 3rd adjacent channels.

Applicants who previously filed for LPFM stations on 3rd adjacent channels were unfairly forced out of consideration. To be fair, all of the applicants for 3rd adjacent channels who filed in any of the five initial windows should have immediate access to a window for their exclusive use. During this window these applicants would have an opportunity to show their renewed desire to be licensees of LPFM stations and to update their applications.

II. Giving LPFM stations primary service status will increase localism.

A. Translators eat up spectrum that could be filled by LPFM stations.

There is a lot of FM spectrum tied up by 3,842 translators and boosters. These translators and boosters are both commercial and noncommercial. Technically, each translator may eliminate at least one LPFM station.

Furthermore, last year a translator window reaped more than 13,000 applications. REC Networks has estimated that 42% of its top-100 communities in which LPFM had been available, were potentially eliminated from having future LPFM stations by the translator applications.

B. Translators are an obstruction to localism.

Because of FCC regulations, translators broadcast no local programming except for an optional 30-second per hour fundraising spot and emergency messages. Rarely is a translator heard broadcasting a local emergency message.

It is generally believed that a LPFM station, which broadcasts local programming, could draw more listeners than a technically similar translator.

During severe weather in the Midwest, a listener could be blown away by an unannounced tornado if he listens to a translator. LPFM stations normally broadcast local weather warnings. LPFM stations are required to be a part of the Emergency Alert System and have the capability of broadcasting local weather watches and warning.

At one particular moment in the same community, a translator could be broadcasting voice-tracked music from a studio a continent away and a LPFM station could be broadcasting a local High School football game.

A listener to a translator might be hearing only a national news broadcast while a LPFM listener could also be hearing a report of deficiencies at the nursing home where his mother resides.

A translator audience may only hear national religious ministries, but a LPFM audience may also hear local church services or local pastors on talk programs. Or a translator audience in Maplewood, Missouri, may hear the church service of a church in Maine but a LPFM audience in Maplewood may hear the church service of a church in Maplewood.

C. Translators keep local broadcasters off the air.

Translators are best suited for rural areas that do not have the resources to construct, maintain, and staff their own local radio stations. In more heavily populated areas they simply keep local broadcasters (i.e., LPFM broadcasters) off the air.

LP100 stations cannot replace translators. The FCC requires a specified separation. Therefore, translators keep LP100 stations off the air.

D. Full power regional stations can force a local station off the air.

Last year a LP100 station was forced off the air by a full power station. "What happened in Taylors, SC is the overall nature of LPFM's secondary status. LPFM must give way to full power stations." In this case a regional station displaced a local station when it changed locations in accordance with current FCC rules.

E. Giving primary status to LP100 stations will protect a community's local LPFM radio station.

The best solution to this portion of the localism problem would be to make the LPFM service a primary service so that LP100 stations cannot be bumped by full power stations and so LP100 stations can bump translators. Full power stations (classes A through C) already have this status.

F. The hardship of replacing translators with LPFM stations could be offset.

The licensees of current translators have invested resources in capital expenses. Some may also be highly motivated to provide their programming to the translator's community. Something could be done to minimize the impact on the translator licensee. The Commission could encourage optional arrangements between the parties.

For example, licensees of some existing translators may be willing to transfer their transmitter-antenna plant to LPFM construction permit holders for an agreement that the translator licensee's network feed be used for a certain period of time as a source of programming on the LP100 when local programming is not being broadcast. For example, some translator operators produce national news broadcasts that could be used on the replacement LPFM station. Or the network's flagship program could be broadcast.

Such an arrangement could be encouraged if the FCC would also allow the LP100 station to use the full power, antenna height, and directional antenna of the replaced translator.

III. Additional Comments:

- A. Definition of Local Programming: In the LPFM rules and regulations, local programming is programming that is produced within a 10-mile radius of the antenna. This definition excludes important sources of local programming that is produced outside the 10-mile radius. MCM recommends that local programming be re-defined for LPFM as programming that is produced within the 10-mile radius or that addresses news, sports, religion, issues, and so forth specifically appropriate to the community within the 10-mile radius. This will increase localism because, with the old definition, the amount of local programming would be reduced as the licensee would not be encouraged to produce local programming outside the radius.
- B. Use of Voice Tracking: Voice tracking can either support or detract from localism. When the voice tracking is produced locally, localism is enhanced. Some of the resources of the station are released to provide additional local programming and to support the station in other ways.

When the voice tracking is produced regionally or nationally, localism is reduced because local news, sports, religious items, issues, and so forth are de-emphasized.

Thus MCM submits that voice-tracking should be permitted in local programming.

Thank you for the opportunity to make these comments!

Awaiting the Return of Our Lord!

A handwritten signature in black ink, reading "Kenneth W. Bowles". The signature is written in a cursive style with a large, stylized 'K' and 'B'.

Kenneth W. Bowles
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November 1, 2004